

UNITED STATES DISTRICT COURT Northern District of New York

EAUARN WHITE

Plaintiff,

Office of Mental Health worker, John Marinelli

Superintendent Donald Uhler

Lieutenant, Robert Barkman

Sergeant, Patrick Baker

Sergeant, Richard Scott

Sergeant, Luc Maynard

Sergeant, Randel Smith

Sergeant, Michael Eddy

Sergeant, Laura Gokley

Correctional officer, Richard Winston

Correctional officer, Adam Gallagher

Correctional officer, Brian Fournier

Correctional officer, Michael Bashaw JR.

Correctional officer, Jeffery Premo

Correctional officer, Nicholas Ashline

Nurse Administrator, Nancy Smith

Nurse Heath Baker

Nurse Michele Byno

Nurse George Waterson

Nurse Christy Conklin

Supervisor Rehabilitation counselor, F.O.I., Denise Bernier

Supervisor Rehabilitation counselor, F.O.I., Tracy Nelson

Offender Rehabilitation counselor, Roxanne Leclerc

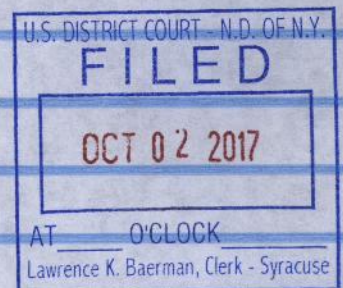
Sued individually and in their official capacities

Defendants.

CIVIL Rights  
complaint Pursuant  
42 U.S.C. 1983  
(Pro-se Prisoner)

Case No. 9:17-cv-1094

Jury Demanded  
☒ Yes





## I JURISDICTION

1. This is a civil action seeking relief and/or to defend and to protect the rights guaranteed by the constitution of the United States. This action is brought pursuant to 42 U.S.C. 1983. The court has jurisdiction over this action pursuant to 28 U.S.C. 1331, 1343 (3), (4) and 2201.

2. Venue properly lies in this District pursuant to 28 U.S.C. section 1391 (b)(2) because the events giving rise to this action occurred mostly at upstate correctional facility State Correctional Institution P.O. Box 2001, 309 Bare Hill Road, Malone, New York 12953. Which is located within the Northern District State.

### Plaintiff Information

3. Name: EQUARN WHITE

Prisoner ID#: 08A2234

Current Place of detention: Clinton Annex Correctional Facility

Address: P.O. Box 2002, Dannemora, N.Y. 12929



## 2#) (A) Previous LAW Suits

[ Plaintiff has filed other LAWSuits dealing with the same facts involved in this action and otherwise relating to his imprisonment.

A) Plaintiff Equarn White Docket NO. 13 - cv - 1427  
Defendant Steven E. Racette,  
Date filed 12/4/12 habens corpus, Eastern District, Judge  
ROSS, outcome 9/13/13, habens relife denied and Appealed

B) Plaintiff Equarn White Docket NO. 13 - 3994  
Defendant Steven E Racette  
Date filed 10/13/14, Court of Appeals Judges  
Dennis Jacobs, Peter Hall and Gerard Lynch, outcome  
of case Granting certificate then May 6, 2015 Affirmed  
District court order

C) Plaintiff Equarn White Docket NO. 15M56  
Defendant Steven Racette, Supreme Court of  
the united states Date filed 10/6/15 out come of  
case writ of certiorari out of time denied.

D) Plaintiff Equarn white Index No 406/2016  
Defendant ANTHONY ANNUNCI, 2/26/16, Artical 78 filed case  
still pending determination [Judicial] from court Appeals



E) Plaintiff Equarn White INDEX No. 1397-17  
Defendant: Anthony ANNucci Dated Filed 2/9/17  
Artical 78 case still pending

F) Plaintiff Equarn White INDEX No 6326-16  
RJ1 NO. 01-16-ST8340  
Defendant ANTHONY ANNucci Date Filed 10/31/16  
Case still pending related Matter

G) Plaintiff Equarn White INDEX No. ~~07~~-0441,  
RJ1 # 09-1-2017-0157.11 ]  
Defendant ANTHONY ANNucci, Artical 78  
Filed March 2, 2017 case still pending. ]



4. Plaintiff Equarn White was at all times relevant hereto an convicted and sentenced state prisoner when the wrongdoing occurred at Upstate correctional facility.

### DEFENDANT(S) INFORMATION

4. Defendant No 1: John Marinelli

Job Title : Office of Mental Health social worker

Work Address: Upstate Correctional Facility, P.O. Box 2001, 309 Bare Hill Road, Malone, N.Y. 12953

5. Defendant No 2: Donald UHLer

Job Title : Superintendent

Work Address: Upstate Correctional Facility, P.O. Box 2001, 309 Bare Hill Road, Malone, N.Y. 12953

6. Defendant No: 3 Robert Barkman

Job Title: Lieutenant

Work Address: upstate correctional Facility, P.O. Box 2001, 309 Bare Hill Road, Malone, N.Y. 12953

7. Defendant No: 4 Patrick M Baker

Job Title: Sergeant

Work Address: Upstate Correctional Facility, P.O. Box 2001, 309 Bare Hill Road, Malone, N.Y. 12953



8. Defendant NO: 5 Richard Scott

Job Title: Sergeant

Work Address: Upstate Correctional Facility, P.O.  
Box 2001, 309 Bare Hill Road, Malone, N.Y 12953

9. Defendant NO: 6 Luc Maynard

Job Title: Sergeant

Work Address: Upstate Correctional Facility, P.O.  
Box 2001, 309 Bare Hill Road, Malone, N.Y 12953

10. Defendant NO: 7: Randel Smith

Job Title: Sergeant

Work Address: Upstate Correctional Facility  
P.O Box 2001, 309 Bare Hill Road, Malone, N.Y 12953

11. Defendant No. 8: Michael Eddy

Job Title: Sergeant

Work Address: Upstate Correctional Facility  
P.O Box 2001, 309 Bare Hill Road, Malone, N.Y 12953

12. Defendant No. 9: LAURA GoKey

Job Title: Sergeant

Work Address: Upstate Correctional Facility  
P.O Box 2001, 309 Bare Hill Road, Malone, N.Y 12953



13. Defendant No. 10: Richard Winston

Job Title: Correctional officer

Work Address: Upstate Correctional Facility  
P.O. Box 2001, 309 Bare Hill Road, Malone, N.Y. 12953

14. Defendant No. 11: ADAM Gallagher

Job Title: Correctional officer

Work Address: Upstate Correctional Facility  
P.O. Box 2001, 309 Bare Hill Road, Malone, N.Y. 12953

15. Defendant No. 12: Brian Fournier

Job Title: Correctional officer

Work Address: Upstate Correctional Facility  
P.O. Box 2001, 309 Bare Hill Road, Malone, N.Y. 12953

16. Defendant No. 13: Jeffery Premo

Job Title: Correctional officer

Work Address: Upstate Correctional Facility  
P.O. Box 2001, 309 Bare Hill Road, Malone, N.Y. 12953

17. Defendant No. 14: Nicholas Ashline

Job Title: Correctional officer

Work Address: Upstate Correctional Facility  
P.O. Box 2001, 309 Bare Hill Road, Malone N.Y.  
12953



18. Defendant No. 15: Nancy Smith

Job Title: Nurse Administrator

Work Address: Upstate Correctional Facility  
P.O. Box 2001, 309 Bare Hill Road, Malone, N.Y. 12953

19. Defendant No. 16: Heath Baker

Job Title: Nurse

Work Address: Upstate Correctional Facility  
P.O. Box 2001, 309 Bare Hill Road, Malone, N.Y. 12953

20. Defendant No. 17: Micheal Byno

Job Title: Nurse

Work Address: Upstate Correctional Facility  
P.O. Box 2001, 309 Bare Hill Road, Malone, N.Y. 12953

21. Defendant No. 18: George Waterson

Job Title: Nurse

Work Address: Upstate Correctional Facility  
P.O. Box 2001, 309 Bare Hill Road, Malone, N.Y. 12953

22. Defendant No. 19: Christy Conklin

Job Title: Nurse

Work Address: Upstate Correctional Facility  
P.O. Box 2001, 309 Bare Hill Road, Malone, N.Y. 12953



23. Defendant No. 20: Denise Bernier

Job Title: Supervisor offender Rehabilitation counselor / F.O.I.I officer

Work Address: Upstate Correctional Facility  
P.O. Box 2001, 309 Bare Hill Road, Malone, N.Y. 12953

24. Defendant No. 21: Roxanne Leclerc

Job Title: Offender Rehabilitation counselor

Work Address: Upstate Correctional Facility  
P.O. Box 2001, 309 Bare Hill Road, Malone N.Y.  
12953

25. Defendant No. 22: Tracy Nelson

Job Title: Supervisor offender Rehabilitation counselor / F.O.I.I officer

Work Address: Upstate Correctional Facility  
P.O. Box 2001, 309 Bare Hill Road, Malone, N.Y.  
12953

## STATEMENT OF FACTS

26. On 5/3/14 after leaving Downstate Correctional Facility O.B.S (Mental Health Observation)

I was transferred by van by two correctional facility officer to Upstate Correctional Facility P.O. Box 2001, Bare Hill Road, Malone N.Y. 12953 which we arrive around 7:50 p.m. We unloaded



4 of my personal property bags out the back of the van on to an white push cart. Where as I then personal push the cart to 11 building and was told I will receive my property in 72 hours. Which in S.H.U. procedure I was then escorted to A-1 company 13 cell.

27) At 8:15 P.M. Sergeant Richard Scott came to my cell and interviewed me. I told him I was feeling suicidal and homicidal and that I would hurt my cellmate.

28.) At 8:17 P.M. sergeant Richard Scott escorted me out my cell, out of 11 building to infirmary and put me on OMH watch. And I stated "This is why we lose guys property."

29) On May 5, 2014 I came out of upstate correctional facility infirmary and was escorted back into 11 building and place in an holden pen. At 10:30 A.M. I was interview by Sergeant Luc Maynard where I explained I still feel suicidal and homicidal and would harm my cellmate if place in the cell with him.

30) However At 10:32 A.M. I was escorted to



A-1 Company 13 cell. Where as the inmate in 13 cell, said he didn't want to be in an cell with me, because of mental health condition.

31) Once again I was escorted off A-1 company back in to 11 building holden pen around 10:35 A.M. And the inmate in A-1, 13 cell was moved to an different cell location.

32) Around 10:41 A.M I was escorted out of 11 building holden pen back to A-1 company to 13 cell. Which I then became A-1 building 13 cell bottom. When I moved in the cell it was urine in the conners of the cell, on the toilet rim and in the shower area. There were ~~some~~ stains on the mattress and urine stains. I wasn't given any sheets, blanket, wash rag, towel or an pillow. The cell was very cold because the ~~ventilation~~ system was blowing cold air. When I ask sergent Luc Maynard for the above mention supplies he denied me them. As I then laid in the fetal postion freezing for the rest of the day and night.

33) On 5/6/14, A-1 company 11 building 13 cell, 7:40 am correction officers, Richarch winston and Adam Gallaghe did breakfast, both of



them, I told them I need cleaning supplies because the cell is filthy. And that I'm freezing and I need sheets, blanket, wash rag, towel and a pillow. Because my head was hurting. They said they see what they can do and walk off.

34) On 5/6/14 11-A-1-136 time 8:35 A.M O.M.H Social worker John Marinelli ask me "how I'm I doing?" I told him I'm feeling homicidal and suicidal and I'm starting to hear muffle voices in my head and I need meds for it. He said "Your not hearing voices, your not homicidal" and walk off.

35) At 8:38 A.M 3 minutes after John Marinelli left my cell correction officer Richard Winston ask me if I wanted to use the shaving razor because it was shower day. I accepted it. When he left I broke the razor apart and started cutting my risk to kill my self. At 8:40 A.M correction officer Richard Winston came back to my cell to get me for an interview with lieutenant Robert Barkman, which he witness me cutting my self and order me to stop and give him the razor.



36) After that on 5/6/14 time 8:40 A.M I was taking to the nurse station in 11 building. Sergeant Patrick Baker ask me " why I did it? " I told him that I felt suicidal. I Also told nurse Heath Baker I felt "suicidal" when he ask.

37) That same day at 8:42 A.M at 11 building nurse station as I was getting cleaned and bandage up. O.M.H John Marinella came, mocking and making jokes about me. And he told sergeant Patrick Baker he is not sending me to O.M.H satellite unit and he is not taking it as an attempt on my life.

38) Around 8:47 A.M after I got bandage up I was place in the interview room in 11 building. And lieutenant Robert Barkman ask me questions about my homicidal threats tickets I caught 5/3/14 and 5/5/14. I told him I'm not getting the right mental health treatment.

39) Around 8:50 A.M Sergeant Patrick Baker entered the interview room while Lieutenant Robert Barkman was questioning me, and ask me an few questions of his own I told them about my



mental health history. And that 21 days prior to coming to upstate, I cut my risk at Elmira correctional facility. And also that 11 days prior I tried to hang my self at Downstate correctional facility. And that as soon as correctional officers pick me up from Downstate Mental Health (satellite unit) and brought me to upstate correctional facility I was put in the infirmary in Mental Health observation, from 5/3/14 until 5/5/14. And that I'm currently on anti-depressants. And that I still feel suicidal and homicidal. I also explain I need cleaning supplies, wash rag, towel, pillow, sheets and an blanket because its freezing cold in the cell. They both said ask the officers I said I did. They both said "It is what it is."

40) So around 9:00 A.M., 5/6/14 I was brought back to 11 building - A-1 company 13 cell by correctional officers Richard Winston and Adam Gallaghe. I told them I need another Tee shirt because my current one was bloody, and I also told them again I need cleaning supplies, Pillow, Towel, wash rag, sheets and an blanket. I also told them it been 72 hours can I get my personal property. They said "Its not going to happen."

41) At 4:00 - 5:00 p.m., 5/6/14, 11 - A1 - 13 cell correctional



nal officers Brian Fournier and Micheal Bashaw, JR was doing the chow run. I was fully dress with the lights on at my cell door, shivering and shaking because I was cold. Brian Fournier then look in my cell (seeing I had nothing in there but a mattress) then at me and said I refuse chow. I yell and said "I wont to eat!" Then correctional officer Micheal Bashaw JR call on his Walkie Talkie radio and stated "A-1-13 refused chow." I was very hungry my stomach, was hurting all night. Dinner is the last meal. It took me 16 hours to eat again.

42) On the same day 5/6/14 time 5:00 - 6:00 p.m. 11-A1-13 cell, Correctional officer (Brian M. Fournier was doing cell clean up. I ask for cleaning supplies, a sponge and a toilet brush. He denied me and wispered I should not have piss officer Gallaghe off.

43) Around May 6, 2014 " 6:00 - 7:00 p.m all the inmates who put down for barber shop on A-1 company 11 building went except me. Which I know correctional officer Brian Fournier was behind it. Because denied me everything that afternoon.

44) Oh May 7, 2014 I was on my cell gate



for sickcall around 6-7:00 A.M. 11-A1-13 cell I ask nurse Heath Baker for some ache cream because I had an serious break out on my face which consisted of 19 pus bumps, do to my filthy cell condition. My whole face felt inflamed. He told me to wash my face with soap and water. I told him I didn't have an rag or even soap. He just look at me and left. He also denied me Medical Shampoo.

43) On May 8, 2014, at 11-A1-13 cell, 9:00-9:30 A.M. after freezing for 4 days laying in the fetal position with my hand and arm inside a tee shirt and short sleeve shirt for most of the days to keep warm, because the ventilation system was blowing cold air. Correctional officer Joey Dishaw brought me one towel, 2 sheets, 1 Blanket and a pillow case. He said no pillows were available at the time and that they didn't have washrags in the front.

46) On May 10, 2014 at 11-A1-13 cell around 6:00-7:00 p.m. correctional officer Matthew Welch the property officer in 11 building said that searching for my property for a



Couple of days, he finally found my property bags and that they were in an different building. [I personal brought my property to 11 building 5/3/14. Sergeant Richard Scott intentional lost my property, because I complain about my mental condition. It takes up to 72 hours the most to recive personal property in S.H.U. which is the policy. It took me 7 days.] I had the same socks, underwear, pants, tee shirt and short sleeve shirt on for 15 days. And the same bloody tee for 5 days.

47) ON May 12, 2014 time 6:30 - 7:00 A.M. Nurse Heath Baker stop at my cell 11-A-1-13 B for sickcall. I requested ache cream because my face still had pus bumps and was inflamed which cause my face pain. I also told him I had an rash on my thigh from not being able to wash properly because I didn't have an rag. He just walk off.

48) ON May 12, 2014 time 6:30 - 9:00 A.M. A1-company 11 building. O.M.H John Marinelli had an correction officer take me out my cell and escort me to the contral bubble. O.M.H John Marinelli told me to



Stop taking my M.H.U meds so he can take me off his case load and he will get Lieutenant Robert Barkman to throw out my homicidal threat tickets I caught May 3<sup>rd</sup>, 2014 and May 5<sup>th</sup>, 2014.

49) After an week of living in an filthy, piss and semen stain cell that broke out my skin and inflamed it, which had an smell so strong it constantly made me nauseous, I was finally given cleaning supplies for my cell.

50) On May 15, 2014, 6:00 - 7:00 A.M 11-A1-13 cell, nurse Heath Baker stop at my cell for sick call, I ask for ache cream, cream for an rash on my thigh he immediately denied me that, I told him about fungus on my feet because I didn't have shower shoes for 6 days and the shower was dirty. He didn't even look at my feet but he said he seen no fungus.

51) On or about May 27, 2014, 9:00 A.M, 11-A1-13 cell. I seen an inmate move in across the hall in 11 building - A1 company, 15 cell. About 9:20 A.M correctional officer Matthew B



welch took him out the cell. About 20 Minutes later correctional officer Matthew welch came to 11-A1-13 cell and said security said I'm now single cell and that they are moving me to 11 building A-1 company 15 cell.

52) ON May 27, 2014, 9:30 A.M after being in 11-A1-15 cell I started to notice banging in my shower area immediately. Which is made of an light but strong metal. The area is hollow. Every two cells got an joined shower which is seperated by the light but strong metal wall. So if an inmate bangs on the wall it is louder than an bass drum.

53) It was also banging on my desk area which was connected to my neighbor desk.

54) I also notice every time an officer makes his or her rounds, or any staff member nurse etc walks my neighbor will kick rapidly on his door. Which sound louder than 8 bass drums. But sharp and compact, which sounds like gun shots or when an car back fires. Its unexpected so an staff member will grab their chest scared, my self included.



55) I then learned I was next to an Mentally ill inmate A1-11-14B Ryzel Reeder who shouldn't have been in the facility, and who staff knows, and is fully aware this inmate displays this type of behavior and put people next to him as retaliation to deprive sleep. And to physiological torture inmates.

56) On May 21, 2014 time around 10:00 a.m I had an video conference in upstate visiting room with an psychiatrist because I miss some med rounds. Because even though the meds was working they making me have complications. So she reduce my dosage. OMH John Marinelli tried to get me to stop taking my meds. I said why when they are working. He got mad.

57) On May 28, 2014 time about 6:00 - 7:00 p.m 11-A1-15B Nurse Heath Baker stop at my cell to give me my M.H.U meds. He gave me an big white pill that almost look like an pain killer and it had an banna taste. I ask him why is this pill different from previous ones other Nurse been giving me since my meds been reduce he said that how they come. An hour later I threw up several time and had an migrain.



58) On 5/29/14 11-A1-15B time 6:00 - 7:00 p.m  
Nurse Heath Baker gave me a big yellow pill I ask "why is this pill yellow?" He said are you going to take it or not. I ask him why come every time he personally give me meds I throw up etc He said that is the side effects. And an half of hour later I threw up and had an migrian for two days.

59) on 6/2/14, 11-A1-15B time 4:00 - 5:00 p.m  
I told her about how (An Female med nurse) Heath Baker is giving me diffrent colors and size pills. She said "at night you supposed to get an orange one and a small half of white on in the morning. And if that is whats going on you should write the nurse administator Nancy smith." So I did about that situation and about how he is denying me meds

60) On 6/3/14 time 6:00 - 7:00 A.m 11-A1-15B  
Nurse Heath Baker gave me an small half of white pill like every other nurse. And he also had an female nurse present with him that morning. I ask for rash cream and foot cream. Heath Baker said "you put down for sickcall every day asking for that your not going to get it no



doctor prescribe you that." The stuff I requested is over the counter meds that's on every sickle call cart in new york state. That Nurses regularly give out.

61) On June 10, 2014 11-A1-15B time 10:00 - 11:00 Am O.M.H John Marinelli stop at my cell saying that "Lieutenant Barkman dismiss my Homicidal threat tickets from 5/3/14 and May 9, 2014. He ask me "Are you going to sign off on your meds?" I said "no." He said "so you broke the deal?" I said "Yep." [Lieutenant Barkman investigated Both Misbehavior reports, being he was the hearing officer on both, if found guilty I would have gotten an reversal anyway.]

62) And I also told John Marinelli about Nurse Heath Baker giving me different shapes, sizes and color pills. I said or rather he said "that's how they come." I said they are not suppose to look like painkillers and antibiotics. He said maybe that's a sign." So I ask did he have any thing to do with this? He winked his eye. I also told him his pal is not giving me medical treatment. He said if I sign off on my meds I will see an doctor immediately. And that I had 3 days to think about it.



(63) On June 11, 2014 11-A1-15 B, Time 6:00 - 7:00 A.M Sickcall Nurse Heath Baker Stop at my cell to give me my mental Health meds.

(64) I told Nurse Heath Baker I'm not taking any more meds from him [Because he wasn't giving me the right pills and every time I take meds from him I throw up or have migraines etc And being that O.M.H social worker John Marinelli prove On the prior day June 10, 2014 that Heath Baker was giving me the wrong pills] and that I will wait until the p.m to take my meds.

(65) That afternoon around 4:00 p.m I received an letter dated 6-9-14 from Nurse Administrator N. Smith stating in sum: Celecia 20 mg at this time is orange.ek

(66) Around 6:00 p.m that afternoon the nurse told me when it was time for my meds that Heath Baker discontinued my meds. It usually take 3 refusals in a row to have M.H.U discontinued.



67) On June 6, 2014 around 7:00 - 8:00 A.M  
 They call commissary rounds on 11-A1 company.  
 Sergeant Randal Smith gave out commissary  
 sheets. He skip my cell 11-A1-15B and didn't  
 give me one but gave every body else one.  
 [He also denied me an pillow, pillow case, wash  
 rag and an towel when I ask.] I couldn't buy  
 personal hygiene products, writing pads  
 and playing cards and greeting cards to  
 send my love ones.

68) On June 15, 2014 about 12:00 - 1:00 p.m 11-A1-15B  
 after about 2 months and 10 days asking staff  
 for an pillow, pillow case towel and wash rag  
 I was provided with them.

69) On July 1, 2014 Time 9:00 - 10:00 A.M I was  
 finally able to see an doctor, of my 19 bumps [gone]  
 was dark blimeshes, my foot fungus was gone and  
 the rash gone. It left an big black mark which  
 I still have to this day. And almost 2 months  
 of complaining I was able to see doctor.

70) On July 8, 2014 11-A1 company around 3:00-  
 4:00 p.m they called Barber shop over the loud  
 Speakers correctional officer Jeffrey premo was  
 doing the list when he approach my cell



he was doing the list when he approach my cell 15B & ask for barber shop he said "You the nigger who be filing all the grievances wait until next month." Then he walk off. I was on razor deprivation for cutting my risk. So I couldn't use the state razor every week to shave like other inmates. So I look forward to having barber shop as I had an big beard which was very irritating and bad for hygiene.

71) When correctional officer Nicholas Ashline made his rounds on 7/8/14 3:00-4:00 pm 11-A1-15B I told him please let me get barber shop correction officer premo didn't let me put down. He said "Maybe you should stop being an cry baby you are only digging your self in an deeper hole."

72) On 7/8/14 time 6:00-7:00 p.m 11-A1-15B correctional officer Nicholas ashline was doing cell clean up & ask correctional officer for some cleaning supplies. He said "Now the cry baby wont supplies no!" The correctional officer that was with him said "let the man clean his cell its bad enough yall didn't give him barber shop look at his face." only then did he give



me cell clean up.

73) From the date of May 27, 2014 until 9/22/14 [with the exception of 9/2/14 until 9/7/14 because I went to mental health observation which I will shortly explain.] Almost 4 months of my neighbor banging and kicking on the shower area, Desk and door all day. Which I was only able to muster about two to three hours a sleep a day. Because any time he thought I was sleep. He would bang me out, combine with being confined in harsh isolation, severe deprivation, Retaliation, Harassment, Nurse Heath Baker and O.M.H John Marinelli conspiring to have my mental health Medication discontinued and addition to not having an pillow for months. I began to have hallucinations, confusion, nervousness, loss of impulse control, concentration deficits, insomnia, headaches and debilitating migraines.

74) On July 17, 2014 approximately around 7:30 A.M. at 11-1-15 B I spoke with Sergeant Michael J. Eddy requesting to be move to an Level 3 gallery, so I could get additional personal property Books, magazines, pictures, sneakers, Shorts, moving in the facility with out waist chains, extra shower and recreation. I Also told him I been P.I. MS3



for 11 days, and that inmates who came after me to 11 building A1 company that is P.I.M.S 2, has been going to level 3 galleries before me. And how my neighbor is depriving me of sleep and that I'm being physiologically torture. He said I will be moving shortly. However it never happen.

757 On September 1, 2014 11-A1-15B Time 9:00 p.m. after being deprive sleep and being physiological torture for months with all the bangin and Kicking combine with harsh isolation, severe deprivation, Retaliation, Harassment, Nurse Heath Baker and O.M.H Marinelli conspiring to have my mental health meds discontinued and in addition with not having a pillow for months, hallucinations, confusion, loss of impulse control, concentration defects, insomnia, headaches and debilitating migraines. I begin feeling depress and suicidal so I began to make a noose to kill my self. I tied the noose around my neck. An officer came by and seen what was happen and save me. I was sent to infirmary in mental health observation. All officers in the area said my neighbor had an reputation of sending his neighbors there etc.



76) ON September 8, 2014 upon returning from O.B.S. Mental Health observation back to 11-A1-15B. All the inmates on A1, 11 building was calling me a rat. Because while I was gone O.M.H. John Marinelli told my neighbor I was telling on him. My neighbor begin to torment me while he was banging.

77) ON September 10, 2014 time 7:00 - 8:00 A.M 11-A1-15B I ask Sergeant Laura M Gokey why is people who is P.I. Ms 2 and who came after me moving. She wisphered because They dont write grievances. I told her my neighbor is depriving me of sleep and all the physiological effects and the migrains. She said she see what she can do but nothing happen.

78) ON September 19, 2014, 5:00 - 5:30 p.m at 11-A1-15B I spoke with Sergeant Randall Smith. I ask him why wasnt I move yet. And that my neighbor is driving me crazy! He said its no cells open. However 11 building 38B was open and unoccupied for about a week.



79) On October 7, 2014, time 6:00 - 7:00 A.M. 11-B2-37 cell I was on my gate. I told Nurse Heath Baker that I have an rash on my side, that is spreading around my side, and my body. He said that the red rash is stretch marks. However I had an six pack at the time and no body fat. I Told him that I was in unbearable pain and need medical attention. I was denied.

80) On October 10, 2014, time 6:00 - 7:00 A.M. when an nurse seen the rash she [11-B2-37B] immediately sent me to the infirmary saying I had an virus. She ask how long I had the rash I told her since 10/6/17. I told her, I told Heath Baker, on 10/7/17. She said he should have knew better an should have sent me to the infirmary a.s.a.p. And the rash wouldn't cover and spread around my body it turned out I had Shingles. I was in isolation, infirmary for 5 days in severe pain. Getting anti-biotics to treat the virus.

81) On October 14, 2014 upon arriving from the infirmary 11-B2-37 bottom



time 3:00 p.m. I receive an letter from Nurse administrator Nancy Smith dated 10-10-14 saying: "You need to sign up for sick call for evaluation of your medical condition." You have been evaluated and deemed to have stretch marks not a rash. No treatment is indicated." At this times I still had the Shingle Virus and taking meds to heal the last infection rash on my back.

82) On 10/14/14 11-B2-37B at 3:00 - 4:00 P.M. I was on my gate waiting to receive my mental health meds And Nurse Michele Byno just walk by my cell. Like she didn't hear me.

83) on 10/16/14 11-B2-37B Time 4:00-5:00 p.m. after not receiving my meds for 3 days Michele Byno told me my Mental health meds was discontinued.

84) On 10/23/14 I ask Michele Byno [11-B2-37B Time 5:00 p.m.] why haven't I been getting my M.H.U. meds? I showed Nurse Michele Byno an Letter From Timothy Kemp saying I been receiving my meds on a regular basis. She said "So". Because



its obvious she was lying to him, telling him I was getting my meds, which I was not. From 10/14/14 until 10/31/14 I didn't receive my mental health meds. which had me feeling more depress combine with the other effects she was having on me.

85) ON 12/1/14 I filed an grievance on senior counselor, F.O. I L officer Denise Bernier after leaving upstate correctional facility and being transfered to Green Haven correctional facility and finding out that video footage I requested of [video] of my mental ill neighbor banging all day wasn't there.

86) ON 12/29/15 I was transfered back to upstate correctional facility upon arrival my escort officer brought me to be interview by sergeant Randel Smith I told him I hope he is not putting me back next to inmate Reeder he said "NO."

87) Around 8:00 p.m 12/29/16 I was brought to 11 building Al company and place in 18 cell. The kicking and the banging started immediately



Which I knew I was back next to inmate Reeder. This again depriving me of sleep and peace of mind.

88) On 12/30/15 time 7:00 AM 11-A1-18 cell I talk to Sergeant Randel Smith about moving next from 11-A1-17 cell. However nothing happen which I knew it was retaliation from filing grievances in the past at up state.

89) On or rather from December 29, 2015 until January 27, 2016 Almost 1 month my neighbor was banging on my bed area, door all day [The beds in 11-A1-17 and 18 cell are connected] which I was traumatize from my last state at upstate correctional facility. This depriving me of sleep.

90) On January 2, 2016 I received a letter from Greenhaven correctional facility F.O.I. officer stating in sum "you were transferred before you were able to review requested video footage, but they have been paid for. These requested items have been forwarded to the F.O.I. officer in your current



facility for you to review. I was able to listen to the hearing tapes after inquiring about viewing the D.V.D. Offender Rehabilitation counselor Roxanne Leclerc told me I would have to write her boss Supervisor Rehabilitation counselor Denise Bernier who also serve as the F.O.I. officer.

91) So about from 1/3/16 to about 1/18/16 I began to write D. Bernier every day to review the D.V.D because I wanted to see if all video footage was there before I ship it to the director of Special housing unit to have as an exhibit while considering my disciplinary appeal [Where I was bent up by staff and was set up with false charges of Assault on staff, violent conduct and lewd conduct.] I wasn't able to get the D.V.D in time.

92) I filed an grievance on 1/18/16.

93) I received an response from Denise Bernier dated 1/15/16, but I received it 1/21/16. It stated in sum: The records



dose not exist at this facility contact Greenhaven c.F."

94) About after 2 Months at about 12:00 p.m. February 11, 2016. When [petitioner] Me was getting a notary for an Artical 78 after the unconstitutional hearing from 12/9/16 was modified. [The reason why I came back to upstate c.F.] I explain to notary officer Julie Hungerford what Denise Benier was doing. [Not given me itiems from greenhaven c.F. etc.] Julie Hungerford ask for all ~~My~~ documents.

95) At 11-A1-18 cell 2/19/16, about 2:00 p.m. Julie Hungerford ask was I able to view the D.V.D? I told her no. She told me she personally brought copies of my documents [The letters from Greenhaven F.o.i.l officer written to me and up-state F.o.i.l officer confirming the D.V.D and tapes was paid for, And two reciepts of the D.V.D and tapes, And a letter from upstate inmate Records Staff saying none of the itiems was place in my property.] And that Denise Bernier confirmed the D.V.D is at the Facility and the tapes are at disciplinary. She also



Said they are making something so small a big deal and that Denise Bernier clearly don't like me and that she is crazy.

96.) Around 2:30 p.m. 11-A1-17 cell, 2/19/16 I explain to my o.r.c Roxanne Leclerc that Julia Hungerford confirm that the D.V.D is here. Because for the last month or so my o.r.c, was saying my D.V.D and tapes wasn't at the facility, even though I showed her all the documents showing they were there, and even though she seen me listening to the tapes. She said Ms. Hunger-Ford is lying and that she is only an grad 6 pay etc. I said: "What the Hell that got to do with anything?" She said more degrading things about Ms. Hungerford. Just for helping me get items I paid for.

97.) However around 4:00 p.m., 11-A1-17 cell 2/19/16. I received a letter from Denise Bernier that had a note attached from o.r.c Leclerc saying "DVD is being returned to Greenhaven as it has been purchased tapes are in possession of Security for you to listen to. Send request to



G.H. if you want to purchase. [By a memorandum from Green Haven F.O.I. officer dated February 1, 2017 which stated in sum she was advised that Appellant "is missing items from his personal property that he has purchased through [G.H.C.F.S.] F.O.I. office in the past; specifically, "3 hearing tapes and 1 D.V.D," the GHCF F.O.I. office enclosed a copy of D.V.D, and inadvertently sent tapes to Tracy Nelson]

98) On around 1/31/16, 11-A1-17 cell I requested video footage of a mentally ill inmate banging all day. Video footage was denied. However in 2014 before I drop an grievance it was never a problem getting video footage of inmate Reeder banging [Even though most the footage requested wasn't there.] With an F.O.I. Request from Denise Bernier.

99) So I requested video footage of a correctional officer walking by my cell singing to piss the mentally ill inmate off to kick more, on 2/10/16.

100) I was told to request an 60¢ disbursement on 2/12/16, when I submitted an disbursement I was told the camera wasn't functioning



101) When I requested a work order for said camera 2/13/16 on 2/17/16 I was told the cameras are on reset.

102) on 2/11/16 I requested a copy of video footage about grievance officer talking to me about my sleep being disturbed and was told to submit \$93.46.

103) After funds was submitted, on 2/16/16 Denise Bernier wrote me saying the recorder wasn't functioning on 2/6/16.

104) So on 2/17/16 I wrote Denise Bernier letting her know that I wasn't requesting video footage from 2/6/16 and that I wanted video footage from 2/8/16. However again I was told the recorder on 2/8/16 wasn't functioning [But Jessie Barnes, who got a misbehavior report on 2/8/16 around the same time 930-11:00pm, was able to view video footage at his disciplinary hearing.]

105) on 2/12/16 I requested video footage from the clinic and was told I will be charge \$93.46. However in 2014 ~~on~~ Before I ever filed an grievances against Denise



Bernier on 6/30/14, I was charged 60¢ for video in the same time frame [1½ hours] [And 60¢ for 23 hours 59 mins 9/25/14, video.]

106) So I wrote the open committee of government about Denise Bernier retaliating against me and her charging me \$93.46 for video footage under two hours. On around 3/14/16 I receive an letter dated 3/14/16 from the open committee of Government saying I can't be charged that amount for my request and the proper amount would be 60¢. They also forward Denise Bernier a copy.

107) So on 3/20/16, I again requested video footage from 2/12/16, and again Denise Bernier sent my disbursement [60¢] back saying "This is in response to your letter regarding to the above F.O.I.L. I did received a copy of the advisory opinion from the committee on government. However your request was processed in accord with existing Docs directives"

108) So I wrote committee on open government again and Kristin O'Neill assistant Director



wrote Denise Bernier personally in an letter Dated 4/7/16 in sum " We are writing in response to an inquiry from MR. Equarn White relating to fees you have assessed him for copy of a video.

In our opinion, your proposed fees relating to cost of reproduction are inconsistent with the law" However my request was still denied. However due to an artical

78 June 21, 2017 the supreme court agreed that I was unreasonable denied F.O.I. Request and that Denise Bernier price was inconsistent with LAW and I was charged 60.¢ for F.O.I. 16-0227] [However video Footage was destroyed by T. Nelson]

109) On March 29, 2016, 11-B1-9 cell, 9:00-11:30p.m orc Roxanne Leclerc came to my cell saying she received a decision from Albany on 3/28/16 stating that I was required to take a sex program. And that she dont not know why. [I found the timing of this newly acquired need disturbingly suspicious being that it was 3 months and 20 days after I was found guilty at an unconstitutional hearing for Lewed conduct where I was denied witnesses, video footage, an unbiased hearing, untimely and other documentary evidence]



110) So on 3/30/16, time 11:00 p.m. 11-b1-9 cell I ask ORC Leclerc for a copy of this Albany decision and my case plan that was reviewed with me 3/11/16 that said no sex program was needed. Upon inspection of the Albany decision I seen Denise Bernier Signature under MS. Leclerc's. I came to the realization that I was tricked. And the right hand corner of the page had referral to central office and need given 3/28/16. So, contrary to playing naive about not knowing why Albany added the newly required need was untrue. Because either her or Denise Bernier put the referral in.

111) So on April 1, 2016, when ORC R. Leclerc did her daily rounds, Petitioner questioned her. She admitted that she put the referral in and not with standing her prior explanation, she tells me she put the referral in because I got 3 Lewed conduct tickets and its mandatory she dose that. [However From May 31, 2014 - October 31, 2014 for almost 6 months Roxanne Leclerc's was my ORC and knew about the 3 Lewed conduct tickets we had about 3 quarterly reviews and in June 2014 I requested my



disciplinary history and she printed it out. When I arrived back at upstate CF ORC showed me the Lewd conduct ticket and the assault tickets of why I was in S.H.U. And she said the only programs I needed was A.R.T. And on 1/5/16 I ask ORC R. Leclerc for a print out of the 2 false assault on staff and the false lewd charges to see if the appeal was pending. And on 1/14/16 I asked ORC Leclerc for another copy of my disciplinary history, to see if the appeal was modified 1/29/16 and she gave me my Disciplinary incident summary.]

11a) So on April 1, 2016 11-b1-4 cell I asked ORC R. Leclerc for some thing in writing or a directive that says if you catch a couple of Lewd tickets, that it is required of her to put in a referral for petitioner to take a sex program. She told me to write D. Bernier for the request. [F.O.I.] I told her you know D. Bernier is going to deny me that. R. Leclerc was aware that D. Bernier denied me every request I made since I arrived back 12/30/15 [I was denied the request. However due to an artical 78 June 21, 2017



The Supreme court agreed that the F.O.I. was unreasonable denied And contrary to the 3 Lewed Conduct tickets as R. Leclerc said was mandatory Kimberly Sesselman said its NO policy stating such. And they submitted page 11 to 12 of the S.O.C.P.T Manule which stated in sum criteria 6<sup>#</sup>: Based on the departments zero tolerance policy for inmate on inmate sexual abuse as outlined in Directive 4027A ... inmates who are found guilty of a tier disposition per the standard of inmate Behavior for a sex offense, threats to commit a sex offense, penal law offense of a sexual nature, or attempt thereof while incarcerated will be referred to office of Guidance and counseling S.O.C.P.T Staff per criteria #6 and may be required to participate in the S.O.C.T.P. If the inmate has an established sex offender counseling need that pre-dates the inmate on inmate sexual abuse, a non-sex offense referral will not be necessary. The Letter was back dated 7/9/17. So the only charge is an inmate on inmate sex abuse, requires a non-sex offense referral, NY CAA 10/10 And Regression Referral E-Form Soc.TP that was sent 7/13/17 clarify or rather clarified that if an inmate completes S.O.C.T.P and recive an guilty disposition for any of the sex offense outline



in the department standards a regression referral will be submitted. which don't apply to me.]

113) Also on April 1, 2016 11-B1-9 cell I told O.R.C R. Leclerc that due process requires that an inmate to be notified of the reason for his classification as a sex offender without me having to request such information from F.O.I. O.R.C R. Leclerc got angry and she forcefully stated "Since you want to be a smart ass, my boss told me to put the referral in because you wrote her up. [Furthermore] when the open committee sent D. Bernier a copy about The price of F.O.I." Then she walk off double back to mumble some more comments then walk off again. [I tried to F.O.I. the video footage of the conversation but was told I'll have to pay \$93.00, due to an Artical 78 decision that found the agency Price was inconsistant with LAW and the proper amount was 60.4 as I of yet received the F.O.I. from Tracy Nelson S.O.R.C D. Bernier replacement.] [After submitting funds 8/25/17 T. Nelson

destroyed video footage]

And after consistantly and adamantly requesting the non-sex offense referral at Clinton C.F



September 15, 2016. And contrary O.R.C R. Leclerc telling me that her boss told her to put the non-sex referral was untrue as it turned out D. Bernier personally submitted the referral 3/11/16. And she added as other: white has an history of violence Towards women, which was unnecessary.

114) On April 7, 2016 11-B1-9 Cell orc A. Leclerc Tried to apologize saying D. Bernier made her put the referral in. On or around April 11, 2011 Tracy Nelson who was shortly replacing D. Bernier Tried to charge me \$96.00 for the video footage due to an artical 78 The Albany county Supreme court rule the price was inconsistent with LAW and price was modified to 60.¢ decision Made 7/21/17 I'm still waiting for Video Footage. After submitting fund 8/25/17, T Nelson destroyed

Video Footage

115) On 3/28/16 I filed an grievance about Tracy Nelson and D. Bernier, Being coruptive to the F.o.i.d process that I had to get notarize because I.R.C wasn't filing my grievances about them.



116) on April 4, 2016, I requested a copy of Doccs rules and directives related to sex offender counseling need. However I was told the documents were being redacted [4/6/16] by Tracy Nelson. I ask her what part of redaction she was referring to? After being notified that answer was being prepared I never receive an response. After filing an Artical 78 The documents mention in paragraph 12 in this compliant was provided.]

117) And I did my investigation and found out not every inmate who caught Lewd conduct infractions or multiple for the most part have non-sex offense referrals submitted and I read multiple documents that shows only an inmate on inmate sex abuse is required for such referral

118) From 12/30/15 until April 31, 2016 Rats continusly ran in and out of my cell.

119) On April 16, 2016 while in my cell 11-B1-9B 7:40 - 9:30 p.m while using the bath room



I witness an mouse with Red eyes in my cell, I tried to back up and cover the entrance of my door so I could trap and kill it, but it viciously lunged at me biting my left big toe the side causing me to bleed. I call on the company for emergency sickcall with the help of other inmates. Officers and nurse Georged waterson came to my cell I showed him the bite mark as it was bleeding. He said he will get me a band aid, I told him I need an tetanus shot. He never came back. And when I ask the nurse or rather an officer who did the next Round for and a band he said nurse waterson said sign up for sickcall.

120) On April 17, 2016, 11-B1-9B Time 7:00 A.M I seen nurse Heath Baker about the bite he gave me povidoneiodine Antiseptic Swabsticks.

121) On 4/18/16 I put an sickcall slip on my gate which is the process if you want to be seen for sickcall the next day at 6:30 - 7:00p.m Nurse Gorge waterson pick up my sickcall slip

122) On 4/19/16 11-B1-9B, 6:30 - 7:00 A.M I was on my cell door with the lights on Nurse



Christy L. Conklin did sick call rounds. she said I was not down for sick call so George Waterson intentional destroyed my sick call slip.

123) So on 4/19/16 11-B1-9B, in the afternoon while my steady officer was picking up LAW library slips I was on the cell door, I was coughing up blood and whispered I need emergency sick call 5 minutes later nurse Christy L. Conklin came to my cell I explain I had severe stomach pain and I was coughing up blood and I believe I had an infection on my foot which I showed her because I was bitten by an mouse this weekend and it got worse with my skin turning yellow and green that area and that I need an tetanus shot. she said why didn't tell her this morning I logically explain that she said I wasn't on the sick call list and that it wasn't emergency then as I was not spitting up blood. she said she had to check my chart

124) 30 minutes later she came back with some meds for my stomach meds for my



head ache and some pruritis in an clear small plastic cup and some vasintraion ointment for the bite. I ask her can she make an referral for me to get an tetanus shot because the Medical Swab Health Baker gave me 4/17/16 said if condition persist for more than 72 hours, animal bites etc contact an doctor. She said she dont care and if I was going to take the treatment or not. She said I'm lucky she doing that. Everyday it was some type of abnormal behavior at upstate C.F. [I requested video April 17, 2016 of all mention above incident when I was bitten by the mouse on April 18, 2016 Tracy Nelson sent my request back saying I need dates because I was so traumatize I for got to put them down so I requested video footage 11-B1-9B cell 4/16/16 from 7:40 p.m - 9:35 p.m, 4/17/16 from 6:00 a.m - 7:30 a.m and 4/19/16 from 11:30 p.m - 12:5 p.m. However Tracy Nelson never respond and due to an Articul 78 Found out she never process my April 19, 2016 request]

125) And April 25, 2016 Leaving upstate C.F and arriving at clinton around 4/25/16 that night getting my property an mice ran



my property bag, you could tell it been in there for months as it ate oatmeal, soups, bits through most of my shirts. Due to my claim it was granted August, 2016 for my damage property, from the rat eating and biting everything in one of my bags.

126.) on 3/4/16, time 3:00 p.m., 11-B1-9B I received an grievance decision from Superintendent Donald ULLer saying he found no evidence of inmate Reeder banging which was untrue. All staff and include some inmates knows Inmate Reeder bangs all day. That's why they put inmate who file grievance next to him as he will tell any staff "That's what I do!" On 2/8/16 when grievance officer Todd Manley was interviewing me about the grievance Reeder was kicking. And in 2014 Summer July or August Reeder was written up for kicking his door when the Superintendent and the Executive team was making rounds. Also shortly before I arrive Inmate RASZell Reeder hit the Superintendent with feces. And every time he was brought out his cell staff wore equipment that look like space suits.



127) On April 21, 2016 II building B1 Company 9 cell 1:30 - 2:30 p.m. Tracy Nelson came to my cell saying she wanted to discuss somethings before I left the facility.

128) First she said my counsalar put the referral in for S.O.C.P.T as policy on 3/28/16 and should or rather gave me paper work stating the same that she her self typed up. [Even though I found out later that Denise Bernier put the non - Sex offense referral in personally 3/11/16] I disputed saying my OAC Roxanne Leclerc told me Denise Bernier told her to put in because I wrote her up. I also told her it was on video footage. Then Tracy Nelson ~~admittor~~ rather admitted she was there when the referral was put in. I also discuss how S.O.C.P.T violate LAW and cited case I read. She said its nothing I could do about because Denis Bernier retired and that now she is the new SOAC, F.O.I. officer. I told her D Bernier threw her under the bus.

129) I Also ask her now that Denise Bernier is gone is she going to start up holden



the price of 60¢ that the open government committee said was proper and not the practice of \$ 93.46 She said the Superintendent said they don't have to follow that, and that is just how upstate is and that I could write Albany.

130. I Also ask her why is she not responding to my request [For referral - non-sex offense.] She said listen it not going to happen and that Denise Bernier left her instructions how to run the Foil process and the Superintendent and other higher ups gave her how the program goes and she's not changing it. I also ask her to give me a reason she was redacting my Foil Request about Directives in an sex program [Because I wrote and she told me she had to find out a reason for redacting it.] She said it's complicated. I said the reason it's complicated because it's not Legal and your trying to make an specious excuse, but it dont even sound right to you.

131. She look amuse and said I was smart and look down at my private area and wispered let me see it. I



said "No!" she said she will let me get the F.O.I.'s & again told her kn or rather "No!" She said "oh your really not like that" And that she was just playing. I said all you had to do is tell the c.o. I did that and no matter what I said they would have found me guilty. She said she know she has been working for Doccs 15 years [It was no reason at all for her to be at my cell, I been ~~too~~ upstate 4 different times about 2 years all together never once did an S.O.R.C. come to my cell And I been in state custody 9<sup>years</sup> and 6 months and not once did I ever even speak ~~with~~ an S.O.R.C.]

132) She also tried to get me to apologize about calling her Denise Bernier "Flunky" and her being intiated in corruption to prove her loyalty. I told her I'm not apologizing for my grievance, which she had a copy of while she was standing at my cell. She said so I have a problem apologizing. I said I'm not wrong and I'm constantly being denied stuff I'm entitled to and outside agencies is



agreeing, she said when I go to my next facility, she will write about f.o.i.l request. Then walk off. [When I left she still unreasonable denied f.o.i.l.s or charged excessive prices.]

133.) From May 3, until October 31, 2014 and From December 30, until April 1, 2016 I was in severely harmful condition in an isolation cell with little or no human contact or other stimulation, no programming, 24 hours out of cell and no recreation with other inmates. Also The lights was on all day severely damaging my eye sight [Around March 2015 an eye doctor said my eye sight drastically got worst from my last check up for glasses in 2009] which combine action was mentally and Physically damaging.

## Claims For Relief

### First Cause of Action, Count 1:

144.) Denial of Medical care

Plaintiff V. Defendants John Marinelli, Richard Winston, Robert Barkman, Patrick Baker and Heath Baker, Federal constitutional claim-- violation of Eighth Amendment



Count 1: 42 U.S.C. 1983, Against Individual Defendants

146) Paragraphs 1 through 133 are incorporated by references as though fully set forth

147) Defendants J. Marinelli, R. Winston, R. Barkman P. Baker and H. Baker was deliberate indifferent to plaintiffs serious Medical needs with thier failure to send Plaintiff to an Mental Health observ ation cell and letting him see an psychiatrist after after knowing Plaintiff was homicidal, suicidal and that plaintiff just cut his risk to kill his self and after knowing the above, Sending him back to his cell. Subjecting him to potential risk.

### Second cause of Action count 2:

148) PLAINTIFF v. Defendants John Marinelli, Heath Baker Robert Barkman, Patrick Baker, Richard Winston, Adam Gallagher, Brian Fournier, Micheal Bashaw JR, Richard Scotty Donald uhler, Luc Maynard, Randel Smith, Micheal Eddy, Laura Gokey, Jeffery Premo, Nicholas Ashline, Nancy Smith, Michele Byno, George Waterson and christy conklin, Denial of Medical care, Basic Human needs and Retaliation Federal constitutional claims. First and EIGHTH Amendment violations



149) Count 2: 42 U.S.C. 1983, 1986, Against individual defendants.

150) Paragraphs 1, through 133 are incorporated herein by references as though fully set forth.

151) Richard Scott violated my 8<sup>th</sup> Amendment right which was crule and unusual punishment when denying Plaintiff Basic human needs, when he intentional lost Plaintiff property bags. Thus Plaintiff had the same socks, underwear, pants, teeshirt and short sleeve shirt on for 15 days unwashed, no deoderent and no Shower slippers, which cause fungus on my feet. [I Also had on an bloody tee shirt for 5 days.]

152) Defendants Luc Mayhard, Richard Winston, Robert Barkman, Patrick Baker, Adam Gallaghe violated Plaintiff 8<sup>th</sup> Amendment right to Basic human needs which was crule and unusual punishment when they had Plaintiff in a cell with human body waste all over mattress, toilet, shower area in conners. In addition the cell was freezing because the ventila tion was blowing cold air where as defendants denied Plaintiff 2 sheets, blanket, wash rag, towel



Pillow and pillow case. Defendant Also denied Plaintiff cleaning supplies. Which broke out and inflamed Plaintiff Skin, Rash on his thighs, foot fungus the smell had Plaintiff feeling nauseous. [Only after an week Plaintiff received cleaning supplies, and 4 day latter he received two sheets, 1 Blanket and a pillow case.] And 2 Months and 10 days after, I was given an pillow, towel and wash rag. I had bad head aches with no pillow.

153) Defendants Brian Fournier and Micheal Bashaw, JR violated Plaintiff 8<sup>th</sup> Amendment rights to Basic human needs which was crule and unusal punishment when they denied plaintiff dinner in addition B. Fournier denied plaintiff Barbershop, cleaning supplies as retaliation for getting Adam Gallaghe mad when Plaintiff tried to kill his self.

154) Defendants Heath Baker and John Marinelli was dileberate and indiffrent to Plaintiff medical needs when, [under 8<sup>th</sup> Amendment] when they intentionally conspired to get Plaintiff to stop taking mental health meds to get Plaintiff off J. Marinelli case load by given Plaintiff the wrong poisonous Pills



which cause plaintiff to throw up and have migraines and intentionally delaying medical treatment for Plaintiff symptoms from his harsh cell conditions [Pus Bumps, Rash and Foot fungus] So J. Marinelli could use as leverage to get Plaintiff to stop his meds. And once Meds was stop Plaintiff tried to commit suicide again.

155.) Defendants Randel Smith, Michael Eddy, Laura Gokey and Donald Uhler violated Plaintiff 1<sup>st</sup> and 8<sup>th</sup> Amendment rights by placing him in a cell next to a mentally ill inmate, to deprive sleep and physiological torture Plaintiff. Because plaintiff filed grievances against multiple defendant in this complaint. In addition to defendants putting an hold on Plaintiff to stay next to the mental ill inmate where Plaintiff couldn't enjoy extra privileges of P.I. Ms 3.

A.) Defendant Randel Smith denied Plaintiff an commissary buy for filing grievance. And when Plaintiff return back to upstate 12/30/16 moved Plaintiff back next to mentally ill inmate to deprive sleep and to Physiological torture



Plaintiff. when in addition other cells was open that plaintiff could moved to.

B) Defendant Donald UHLer failed to protect Plaintiff from his sleep being deprive and [torture] being physiologically. And intentionally covering up Grievance decision on the issue, to keep Reeder as an weapon for inmates who filed grievances.

156.) Defendant Jeffrey premo and Nicholas Ashline Violated may 1<sup>st</sup> an 8<sup>th</sup> Amendment right by intentionally denying Plaintiff barber shop to take care his hygiene for filing grievances.

157.) Defendant Nancy Smith and Heath Baker Violated Plaintiff 1<sup>st</sup> and 8<sup>th</sup> Amendment rights when Heath Baker was deliberate and indifferent to Plaintiff serious medical when he intentionally denied Plaintiff medical treatment for the shingles virus, because Plaintiff filed mutiple grievances about him denying plaintiff medical treatment in the past.

A) Nancy Smith the nurse Administatror failed to protect Plaintiff from Heath Baker being deliberate and indifferent to plaintiff serious medical



Needs, when on same day Plaintiff was put in the infirmary for the shingles virus, she sent plaintiff an letter stating in sum "You had stretch marks etc sign up for sick call". Plaintiff received letter once he left the infirmary still receiving anti-biotics to cure the last part of the virus.

B) Also Nancy Smith failed to protect Plaintiff from Heath Baker giving him the wrong medication, when she knew the color of the mental Health Meds describe by Plaintiff in the letter he wrote her, wasn't the ones pre scrib.

158.) Defendant Michele Byno violated Plaintiff 8<sup>th</sup> Amendment right when she intentionally didn't give Plaintiff his mental health meds for 17 days, This serious denial was deliberate and indifferent

159.) Donald uhler violated Plaintiff 8<sup>th</sup> Amendment rights where from 12/29/15 until 4/25/16 numerous Rattens ran in and out of Plaintiff cell, and Defendant D. uhler failed to call an exterminator this putting Plaintiff in Potential risk of danger which Plaintiff was ultimately bitten.



160.) Defendants George waterson and christy conklin Violated Plaintiff 8<sup>th</sup> Amendment rights when they were diliberate and indiffrent to plaintiff serious medical needs for an Rotton bite.

A) Defendant George waterson failed to treat Plaintiff after Plaintiff showed Defendant he was bleeding and explain that he was bitten by an mice with red eyes 4/16/17. And on 4/18/17 Defendant destroyed Plaintiff sick call slip or failed to put Plaintiff in for an tetanus shot.

B) Nurse christy conklin also failed to put Plaintiff in for an tetanus shot, after plaintiff was coughing up blood and my toe begin or rather being green and yellow.

161.) Defendant Donald uhler Violated Plaintiff 8<sup>th</sup> Amendment rights with severely harmful conditions in an isolation cell with little or no human contact in addition with other conditions explain in paragraphs 1-133 of this complaint

A) Defendant Donald uhler had S.H.U cell fluorescent lights on 24 hours a day affecting Plaintiff eye sight.



Third cause of Action count 3:

162) Plaintiff V. Defendants Denise Bernier, Tracy Nelson, Roxanne Leclerc and Donald uhler Violated Plaintiff 14<sup>th</sup> Amendment Right to due Process, Substantive due process that was arbitrary conscious shocking and oppressive, Access to the court, in addition Equal Protection, 1<sup>st</sup> Amendment and 8<sup>th</sup> Amendment.

163) Count 3: 42 USC 1983, 1986 Against individual defendants

164) Paragraphs 1, through 133 are incorporated herein by references as though fully set forth.

A) Defendant Denise Bernier violated Plaintiff 14<sup>th</sup> Amendment rights of access to the court and his 1<sup>st</sup> Amendment by intentionally delaying and ultimately not placing it in Plaintiff personal property and destroying an D.V.D. Plaintiff purchased of an hearing officer Pre determination of guilt while hearing recorded was off [that she ultimately Put an non-sex offense referral in for] where it was a 99% chance if D.V.D was submitted to Albany with his administrative Appeal, Plaintiff would have gotten the ticket reversed instead of modified or Reversed and expunge



By an Dutchess county Justice on an Arirical 78 if he was able to submit D.V.D. [Plaintiff received D.V.D a year after he purchased it] in time where as Plaintiff Had S.O.C.P.T add on his program needs with Pre conditions to his release. Defendant Did the above mention actions because Plaintiff file grievance against her 12/1/14 when he left Upstate C.F. and 1/18/16 upon his return. And Also 3/28/16.

B) Defendants Denise Bernier and Tracy Nelson Violated Plaintiff 1<sup>th</sup> Amendment rights when they intentionally and deliberately denied, fail to respond and destroyed all F.O.I. Requests, made by plaintiff for filing grievances, on 12/1/14, 1/18/16 and 3/28/16 and complaints

C) Before Plaintiff every filed an grievances against defendant D. Bernier 12/1/14  
 Plaintiff never had any problems obtaining any F.O.I.L Request Plaintiff made that D. Bernier later charge excessive Prices for or unreasonable denied. Even after outside agencies said Prices was inconsistent.

D) Defendant Tracy Nelson continued deny or fail to respond to Plaintiff F.O.I.L Request



about his sex offender program needs, directives and intentionally destroyed video footage of Plaintiff O.A.C. R. Leclerc telling Plaintiff that the sex offense referral was for grievances and complaints etc. And video footage of an nurse telling Plaintiff that an doctor at greenhaven knew about an infection but failed to treat Plaintiff. After an court order to produce said document or rather video footage. Because of Plaintiff grievances 3/28/16. In addition denying Plaintiff access to the court of claims on his Greenhaven malpractice claim. Because Plaintiff cant afford an medical expert.

E) Defendant Donald alther created an unwritten policy for F.O.I.I officers at upstate c.F to manipulate, destroy and charge excessive prices for Prisoners who file grievances so they cant have proof of corruption when they file lawsuits.

165) Defendants D. Bernier and R. Leclerc violated Plaintiff 14<sup>th</sup> Amendment procedural due process and his 1<sup>st</sup> Amendment right when they submitted non sex offense reffernt because Plaintiff filed grievances and complaints in addition that Plaintiff had no inmate on inmate sex abuse or fit any of Doccs directives for referral. And where Defendants knew Plaintiff, knew had 3 Lewd tickets 23 months



before referral was submitted, and then only submitted referral after grievances] Plaintiff also challenged to have the recommendation vacated in administrative proceedings.

A) Defendants D Benier and R. Leclerc violated Plaintiff substantive due process which was arbitrary conscious shocking and oppressive. When D. Benier intentionally didn't let plaintiff have access to the DVD from superintendant hearing. [And Plaintiff was denied due process at the superintendant hearing that led to the sex offense recommendation] And the non-sex offense referral in Plaintiff case was arbitrary as a matter of LAW.

Plaintiff B) Defendants D Benier and R. Leclerc violated 14<sup>th</sup> Amendment rights under Equal Protection when they didn't put in non-sex offense referral for other inmates who came to upstate C.F. [Plaintiff will have to obtain percentage in discovery in addition Plaintiff is currently in the F.O.I.I. Process of obtaining the percentage of inmates who came to upstate for Leaved conduct Tickets and how many had sex offense referral submitted, when once obtain Plaintiff will submit an amended complaint with additional defendants once grievances are exhausted etc]



166) Defendant Tracy Nelson violated Plaintiff 8<sup>th</sup> Amendment rights under cruel and unusual Punishment when she ask Plaintiff to expose his penis in exchange for F.o.i.s which was physical and physiological torture. [She knew Plaintiff was sexual abuse and harrass in the past by female staff [Plaintiff told her] in addition of making complaints about Misconduct Plaintiff was retaliated against and given false Lewd conduct tickets] Defendant abuse her authority

167.) All defendants, Plaintiff challenged, conduct was attributable to a person acting under color of state LAW and deprived the Plaintiff of rights privilege, immunity and secured by constitutional LAWS of the United States

### EXhaustion of Administrative Remedies

168.) The Plaintiff has exhausted his administrative remedies with respect to all claims and all defendants.

169.) WHEREFORE, Plaintiff respectfully request judgment in his favor and damages in his favor against each individual defendant in the amounts sufficient to compensate for pain and suffering, mental anguish, and all other injuries caused by the intentional misconduct by defendants as set forth above but not less than following:



A) Defendant J. Marinelli

- Compensatory: \$10,000,000.00
- Punitive: 2,000,000.00, Suspension with out pay for 6 months.

B) Defendant D. uhler

- Compensatory: \$55,000,000.00
- Punitive: 13,000,000.00

C) Defendant R. Barkman

- Compensatory: \$3,000,000.00
- Punitive: \$500,000.00

D) Defendant P. Baker

- Compensatory: \$ 2,000,000.00
- Punitive: \$300,000.00

E) Defendant Richard Scott

- Compensatory: 1,000,000.00
- Punitive: \$50,000.00

F) Defendant L. Maynard

- Compensatory: \$170,000, ~~000.00~~
- Punitive \$10,000.00

G) Defendant R. Smith

- Compensatory: 35,000,000.00
- Punitive: \$9,000,000.00



H) Defendant M. Eddy

- Compensatory: \$10,000,000.00
- Punitive: \$2,000,000.00

I) Defendant L. Goley

- Compensatory: \$11,000,000.00
- Punitive: \$2,025,000.00

J) Defendant A. Winston

- Compensatory: \$750,000.00
- Punitive: \$25,000.00

K) Defendant A. Gallaghe

- Compensatory: 1,500.00
- Punitive: \$70.00

L) Defendant B. Fournier

- Compensatory: \$950,000.00
- Punitive: \$150,000.00

M) Defendant M. Bashaw JR.

- Compensatory: \$10,000,000
- Punitive: \$1,500.00

N) Defendant J. Premo

- Compensatory: \$2,000.00
- Punitive \$250.00



1) Defendant N. Smith

- Compensatory: \$ 12,000,000.00
- Punitive: \$3,000,000.00

2) Defendant H. Baker

- Compensatory: \$15,000,000.00
- Punitive: \$ 5,000,000.00

3) Defendant M. Byno

- Compensatory: \$1,000,000.00
- Punitive: \$200,000.00

4) Defendant G. Waterson

- compensatory: \$ 750,000.00
- Punitive: \$ 250,000.00

5) Defendant K. Conklich

- Compensatory: \$5,000.00
- Punitive: \$750.00

6) Defendant D. Bernier

- Compensatory: \$5,000,000.00
- Compensatory or rather Punitive \$2,500,000.00

7) Defendant Tracy Nelson

- compensatory: \$5,000,000.00
- Punitive: \$2,500,000.00



w) Defendant A. Leclerc

Compensatory: \$250,000.00

Punitive: \$20,000.00

x) Defendant N. Ashline

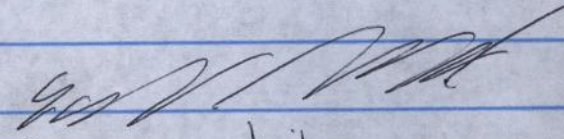
Compensatory: 1,700.00

Punitive: \$300.00

Grant such other relief as it may appear that Plaintiff is entitled. All Mention defendants sued individually and in their official capacities

[Concerning Facts in paragraphs 26 to 50 of this complaint] Plaintiff received central office Review committee final determination October 15, 2014, Dated October 15, 2014.

I declare under Penalty of Perjury that the foregoing is true and correct, Date: 9/24/17

  
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